



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 21st DAY OF SEPTEMBER 2021

THE HON'BLE MR. JUSTICE N.SESHASAYEE

C.S. No.702 of 2002
and
A.Nos.3739 to 3741 of 2017

C.S. No.702 of 2002

1. S.Karthikeyini,
residing at No.74, Chellan Nagar,
First Cross Street, Pondichery-11.

2. K.Victoria Rani,
residing at No.S81, 16th Street,
4th Main Road, Anna Nagar,
Chennai-40.

... Plaintiffs

-Versus-

1. R.Selvaranga Mudaliar, (Deceased)(*)

2. S.Thandapani,

3. S.Ravisekar,

4. S.Karunamurthi,
D2 & 3 are residing at No.5,
Balasubrayanar Street,
Big Natham, Chenglepet,
D4 r/a No.47, VGP Nagar,
Mogaippair, Chennai-37.

5. S.Meera Bai,
W/o V.Sellappan,
Uruvayar,



Mangalam Post, Villianur,
Pondicherry.

...Defendants

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(*)Defendants 2 to 5 are brought
on records as legal representatives
of deceased 1st defendant, as per
order dated 28.01.2004 in A. No.247 of 2004

C.S. No.702 of 2002

Civil Suit praying that this Hon'ble Court be pleased to pass a
decree and judgment against the defendants:-

(a) for partition and separate possession of the plaintiffs share (*)
2/6 in the A schedule properties by metes and bounds.

(b) directing the 1st Defendant to pay a sum of Rs.3,60,000/-
being the Plaintiffs (*)2/6 shares in the past mesne profits accrued from
A Schedule properties for the preceding three years from the date of
presentation of the above suit.

**(*) Amended as per order dated 7.7.2008
in Application No.1205/04.**

(c) directing the defendants to pay to the plaintiffs their future mesne
profits from the date of the plaint to till the date of delivery of
possession of plaintiff's 2/7 shares in the A Schedule properties.

(d) for permanent injunction restraining (*) **the Defendants 2 to 5** his
men agents, servants or any person authorized on his behalf from in any
way alienating or dealing with any of the A and B Schedule properties
in any manner.



(e) to appoint an advocate commissioner to divide the A Schedule properties by metes and bounds and allot the plaintiffs (*) 2/6 share in the A schedule properties.

(f) Directing the defendant to pay the cost of the suit.

**(*)amended as per order dated 07.07.2008
in Appln. No.1205 of 2004)**

A. No.3739 and 3741 of 2017:-

1. S.Karthikeyini,
W/o.Mr.S.Suriyaprakasam,
No.74, Chellan Nagar,
First Cross Street, Pondichery-11.

2. K. Victoria Rani,
W/o.Mr.V.Kulothungan,
No.S81, 16th Street,
4th Main Road, Anna Nagar,
Chennai-40.

... Applicants/Plaintiffs
(Both Applications)

-Versus-

1. R.Selvaranga Mudaliar, (Deceased)

2. S.Thandapani,

3. S.Ravisekar,
2 & 3 are at No.5,
Balasubrayanar Street,
Big Natham, Chenglepet.

4. S.Karunamurthi,
No.47, V.G.P.Nagar,
Mogappair, Chennai-37.



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5. S.Meera Bai,
W/o V.Sellappan,
Uruvayar,
Mangalam Post, Villianur,
Pondicherry.

... Respondents/Defendants
(Both Applications)

(Respondents 2 to 5 are brought
on record as legal representatives
of deceased 1st defendant, as per
order dated of this Court in
Appln. No.247 of 2004 dt.28.01.2004)

A. No.3739 of 2017:-

Application praying that this Hon'ble Court be pleased to appoint
an Advocate Commissioner directing him to divide the suit A schedule
properties viz., the properties more particularly described in the
schedule hereunder into 6 equal shares by metes and bounds and allot
and deliver one such share to each of the applicants herein.

A. No.3741 of 2017:-

Application praying that this Hon'ble Court be pleased to pass a
final decree in the above suit in respect of the schedule properties
mentioned hereunder.

A.No.3740 of 2017:-

1. S.Karthikeyini,
W/o.Mr.S.Suriyaprakasam,
No.74, Chellan Nagar,
First Cross Street, Pondichery-11.

2. K. Victoria Rani,
W/o.Mr.V.Kulothungan,



No.S.81, 16th Street,
4th Main Road, Anna Nagar,
Chennai-40.

...Applicants/
Plaintiffs

-Versus-

1. R.Selvaranga Mudaliar, (Deceased)

2. S.Thandapani,
S/o.Late R.Selvaranga Mudaliar
No.5, Balasubrayanar Street,
Big Natham, Chenglepet.

3. S.Ravisekar,
S/o.Late R.Selvaranga Mudaliar
No.5, Balasubrayanar Street,
Big Natham, Chenglepet.

4. S.Karunamurthi,
S/o.Late R.Selvaranga Mudaliar
No.47, VGP Nagar,
Mogappair, Chennai-37.

5. S.Meera Bai,
W/o V.Sellappan,
Uruvayar,
Mangalam Post, Villianur,
Pondicherry.

...Respondents/
Defendants

(Respondents 2 to 5 are brought
on records as legal representatives
of deceased 1st defendant, as per
order dated of this Court in
A. No.247 of 2004 dt.28.01.2004)

Application praying that this Hon'ble Court be pleased to direct

the advocate commissioner to enquire and ascertain the future mesne
profits accrued from the suit A schedule properties as described in the



schedule hereunder from the date of filing of the above suit in C.S.No.702 of 2002 and by directing the respondents 2 and 3 to pay such ascertained mesne profits to the applicants towards their respective 1/6 share therein

This Civil Suit along with these applications coming on this day before this court for hearing through video conference in the presence of Mr.N.Nagu Sah, Advocate for Plaintiffs in C.S.No.702 of 2002 and for the Applicants in A.Nos.3739 to 3741 of 2017, and Mr.M.Hariharan, Advocate for the 2nd Defendant in C.S.No.702 of 2002 and for the 2nd respondent in A.Nos.3739 to 3741 of 2017 and Mr.N.Chandra Sekar, Advocate for the 4th Defendant in C.S.No.702 of 2002 and for the 4th respondent in A.Nos.3739 to 3741 of 2017 and upon reading the order of this Court dated 06.12.2019 and Compromise Memo filed on 15.09.2021 and this Court doth recording the same and,

It is ordered as follows:-

That the 4th defendant herein be and is hereby directed to pay a sum of Rs.5,000/- (Rupees Five Thousand Only) to the Chief Justice Relief Fund to purge the kind of irresponsibility exhibited by him in dealing with the judicial process of this Court.

2. That the suit in C.S.No.702 of 2002 be and is hereby

dismissed as settled out of Court.



3. That a certificate under Section 69 of The Tamil Nadu Court Fees and Suits Valuation Act XIV of 1955, do issue herein, out of and under the seal of this Court in favour of S.Karthikeyini and K.Victoria Rani, the Plaintiffs herein, authorising them to receive from the Pay and Accounts office, High Court, Madras, a sum of Rs.7,530.50/- (Rupees Seven Thousand Five Hundred and Thirty and Fifty Paise only) being the entire Court fee paid on the plaint by the plaintiffs herein.

4. That these Applications in A.Nos.3739 to 3741 of 2017 be and are hereby dismissed.

5. That there shall be no costs of this suit.

WITNESS THE HON'BLE MR.JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS
THE 21st DAY OF SEPTEMBER 2021.

Sd./-

ASSISTANT REGISTRAR (O.S.I)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



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28.12.2021

C.S. No.702 of 2002
and
A.Nos.3739 to 3741 of 2017

ORDER

DATED : 21.09.2021

THE HON'BLE MR.JUSTICE

N.SESHASAYEE

FOR APPROVAL: 05.01.2022

APPROVED ON: 07.01.2022



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2021

CORAM

THE HONOURABLE **MR.JUSTICE N.SESHASAYEE**

C.S.No.702 of 2002

and A.Nos.3739 to 3741 of 2017

S. Karthikeyini
K.Victoria Rani

...Plaintiffs

Vs.

1.R.Selvaranga Mudaliar (Deceased)
2.S. Thandapani
3.S.Ravisekar
4.S.Karunamurthi
5.S.Meera Bai

(Plaintiffs and Respondents 2 to 5 are
brought on record as legal representatives
of deceased 1st defendant as per order
dt.28.01.2004 in Appl. No.247/2004)

...Defendants

Prayer: The Civil Suit has been filed under Order IV Rule 1 of the

Original Side Rules read with Order VII Rule 1 of C.P.C. 1908, praying
to pass a decree and judgment against the defendants.

(a) for partition and separate possession of the plaintiffs share (*)

2/6 in the A schedule properties by metes and bounds.

(b) directing the 1st Defendant to pay a sum of Rs.3,60,000/-

being the Plaintiffs (*)2/6 in the past mesne profits accrued from A
Schedule properties for the preceding three years from the date of
presentation of the above suit.



(c) directing the defendants to pay to the plaintiffs their future mesne profits from the date of the plaint to till the date of delivery of possession of plaintiff's (*) 2/6 shares in the A Schedule properties.

(d) for permanent injunction restraining the Defendants 2 to 5 his men agents servants or any person authorized on his behalf from in any way alienating or dealing with any of the A and B Schedule properties in any manner.

(e) to appoint an advocate commissioner to divide the A Schedule properties by metes and bounds and allot the plaintiffs (*) 2/6 share in the A schedule properties and no costs.

(*)amended as per order dated 07.07.2008 in Appl. No.1205 of 2004)

For Plaintiffs : M/s. N.Nagu Sah

For Defendants : Mr.N.Chandra Sekar for D4
Mr.M.Hariharan for D2

JUDGMENT

(This case has been heard through video conference)

The Suit is for partition among the siblings. The matter is amicably settled and compromised. All the parties have logged in and all of them confirmed the compromise they have entered in. This Court is satisfied and records the same.

2.It may stated that necessarily decree has to be passed in terms

of compromise. Having stated so, this matter came up before this Court



on 16.09.2021, when all the parties except 4th defendant, logged in on the screen and this Court was informed that the 4th defendant wanted to settle some other outstanding issues which are alien to the suit, and hence he has not appeared through virtual Court. Hence, this Court could not record the compromise and adjourned the matter for physical appearance of the parties at 2.15 p.m. on 20.09.2021. By inadvertence, the Registry did not post the case on that day. However, the counsels appearing for the parties made a mention of the case and accordingly the case is posted today.

3.This Court was informed yesterday (20.09.2021) that the 4th defendant also stands by the compromise he has signed. Today the 4th defendant has appeared and confirmed the same.

4.In its order dated 16.09.2021, this Court has expressed considerable anguish that the 4th defendant has attempted to settle certain outstanding scores with the plaintiffs by holding the judicial process of this Court to ransom. The Court is just a machinery which has to be handled with considerable responsibility by the litigants to resolve issues arising out of the cause of action or matters closely connected with it. It can never be made a centre for resolving the conflicting issues of the litigants, but the 4th defendant has done it and it



5. What should be done, should be done immediately and should not be allowed to stand over to another day. But the 4th defendant ensured that the matter was adjourned to another day and unnecessarily he has created difficulties and inconvenience to the Court. This Court, therefore, directs the 4th defendant to pay a sum of Rs.5,000/- (Rupees Five Thousand Only) to the Chief Justice Relief Fund to purge the kind of irresponsibility exhibited by him in dealing with the judicial process of this Court,

6. The Compromise Memo dated 15.09.2021 has been recorded and taken on file.

7. This Civil Suit stands dismissed as settled out of Court accordingly. The Registry is directed to refund the Court fee as per law. Consequently, the connected applications are also dismissed. No costs.

Sd./-N.S.S.J
21.09.2021

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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